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1 UNITED STATES DISTRICT COURT
2 NORTHERN DISTRICT OF CALIFORNIA
3 SAN FRANCISCO DIVISION
4

5 **IN RE GOOGLE PLAY STORE**
6 **ANTITRUST LITIGATION**

Case No. 3:21-md-02981-JD

7 THIS DOCUMENT RELATES TO:

**JOINT CASE MANAGEMENT
STATEMENT**

8 *Epic Games Inc. v. Google LLC et al.*, Case
9 No. 3:20-cv-05671-JD

Courtroom: 11, 19th Floor (via Zoom)
Judge: Hon. James Donato

10 *In re Google Play Consumer Antitrust*
11 *Litigation*, Case No. 3:20-cv-05761-JD

12 *In re Google Play Developer Antitrust*
13 *Litigation*, Case No. 3:20-cv-05792-JD
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Pursuant to this Court’s Order dated February 18, 2021, the parties in the above-captioned MDL action (the “Parties”), by and through their undersigned counsel, submit this Joint Statement.

I. Status of Consolidated Consumer Complaint

The Court directed the Parties to advise “on whether any of the consolidated complaints will be amended now that additional cases have been transferred to this district.” ECF No. 5. Interim Co-Lead Counsel for the Consumer Plaintiffs communicated with counsel for the six new consumer class actions transferred to this Court and confirms that these six new consumer class actions should be deemed consolidated with and into *In re Google Play Consumer Antitrust Litigation*, Case No. 3:20-cv-05761-JD, and that, at this time, Consumer Plaintiffs will not file an amended complaint or add named Plaintiffs to the operative consolidated complaint. As such, the pending Consolidated Consumer Class Action Complaint (ECF No. 132, Case No. 3:20-cv-05761-JD) will be the operative consumer complaint for purposes of Defendants’ pleadings challenge and for further consolidated proceedings in *In re Google Play Consumer Antitrust Litigation*, Case No. 3:20-cv-05761-JD, with respect to all Consumer Plaintiffs, including those named in the Consolidated Consumer Class Action Complaint and those named in the six newly centralized consumer class actions.

As reflected in the proposal below (*see* Section II), the Parties agree that Defendants’ pending Rule 12(b)(6) motion to dismiss as to Epic Games, Inc. (ECF No. 91, Case No. 3:20-cv-05671-JD) and as to Developer Plaintiffs (ECF No. 71, Case No. 3:20-cv-05792-JD) (“the motion to dismiss”), shall be deemed Defendants’ timely response to the Consolidated Consumer Class Action Complaint (including each of the newly centralized consumer class actions). Accordingly, as set forth below, the arguments in support of, and in opposition to, the motion to dismiss shall be deemed to apply to the Consolidated Consumer Class Action Complaint.

II. Proposal for Motion Practice

With respect to the Court’s instruction that the Parties should “streamline motion proceedings through the use of consolidated briefs to the fullest extent possible” in connection with Defendants’ pending Rule 12(b)(6) motion to dismiss, and “meet and confer on a proposal to

1 achieve those efficiencies,” the Parties make the following joint proposal, subject to the Court’s
2 approval:

3 First, all Consumer Plaintiffs shall join in and be subject to the joint omnibus briefing
4 already on file with the Court, specifically:

5 • The following motion will be deemed to apply to, and seek dismissal of, the claims
6 alleged in the Consolidated Consumer Class Action Complaint: Defendants’ Notice Of Motion
7 And Motion To Dismiss Epic Games, Inc.’s Complaint And Developers’ First Consolidated Class
8 Action Complaint; Supporting Memorandum Of Points And Authorities On Common Issues (ECF
9 No. 91, Case No. 3:20-cv-05671-JD; ECF No. 71, Case No. 3:20-cv-05792-JD).

10 • All Consumer Plaintiffs will be deemed to have joined the following: Joint
11 Opposition By Plaintiff Epic Games, Inc. And Developer Class Plaintiffs To Defendants’ Motion
12 To Dismiss (ECF No. 111, Case No. 3:20-cv-05671-JD; ECF No. 80, Case No. 3:20-cv-05792-
13 JD).

14 • The following reply will be deemed to respond to the above-referenced opposition
15 (which, under this proposal, said opposition will be deemed joined by Consumer Plaintiffs):
16 Defendants’ Reply To Opposition To Defendants’ Motion To Dismiss Epic Games, Inc.’s
17 Complaint And Developers’ First Consolidated Class Action Complaint (ECF No. 117, Case No.
18 3:20-cv-05671-JD; ECF No. 95, Case No. 3:20-cv-05792-JD).

19 • The Parties will file each of the above briefs on the docket in *In re Google Play*
20 *Consumer Antitrust Litigation*, Case No. 3:20-cv-05761-JD.

21 Second, Defendants’ separate, five-page Motion to Dismiss Developer Plaintiffs’ Claim
22 for Damages will be deemed fully briefed (ECF No. 71-1, ECF No. 81, ECF No. 95-1, Case No.
23 3:20-cv-05792-JD).

24 Third, the Parties will not submit any further or supplemental “short briefs on fact issues.”
25 Thus, no further briefing will be submitted by the parties in connection with the motion to dismiss.

1 Subject to the Court's availability, the Parties propose either of the following hearing dates
2 on the Court's regular Civil Law & Motion calendar: April 8, 2021 at 10:00 a.m. or April 15, 2021
3 at 10:00 a.m.
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1 Dated: February 26, 2021

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9 Yonatan Even

10 *Counsel for Plaintiff Epic Games, Inc.*

11 Dated: February 26, 2021

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1 Dated: February 26, 2021

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11 Dated: February 26, 2021

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19 *Counsel for Defendants Google LLC et al.*

E-FILING ATTESTATION

I, Brian C. Rocca, am the ECF User whose ID and password are being used to file this document. In compliance with Civil Local Rule 5-1(i)(3), I hereby attest that each of the signatories identified above has concurred in this filing.

/s/ Brian C. Rocca

Brian C. Rocca